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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/298,726 04/23/99 MADDALON

V 06023-71 (MI/

000570 QM12/0228
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EXAMINER

DEXTER C

ART UNIT

PAPER NUMBER

6

3724

DATE MAILED:

02/28/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/298,726

Applicant(s)

Maddalon

Examiner

Clark F. Dexter

Group Art Unit

3724



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-8 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-8 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1³ and 7, drawn to a trimming device with a specific feed roller configuration, classified in class 83, subclass 436.3. ←
- II. Claims 1² and 8, drawn to trimming device with a specific cutter assembly configuration, classified in class 83, subclass 614.
- III. Claims 1 and 4-6, drawn to a trimming device with a specific control structure, classified in class 83, subclass 360.

2. Claims 1-8 have been restricted such that the patentability of the invention is presumed to lie in the details of the particular group (e.g. the specific feed roller configuration of Group I). It is noted that if claim 1 as originally filed is part of an elected group and determined to be patentable, rejoinder of claims 1-8 will be considered.

3. The inventions are distinct, each from the other because of the following reasons:

4. Inventions of groups I and II are separate inventions. They are distinct because the invention of group I does not require the specific details of the cutter assembly configuration (e.g., the two blades parallel to each other) of group II for patentability as evidenced by the omission thereof from group I, and the invention of group II does not require the specific details

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of the feed roller configuration (e.g., feed without guidance or reference) of group I for patentability as evidenced by the omission thereof from group II.

5. Inventions of groups I and III are separate inventions. They are distinct because the invention of group I does not require the specific details of the control structure (e.g., the spacing of the optical sensors) of group III for patentability as evidenced by the omission thereof from group I, and the invention of group III does not require the specific details of the feed roller configuration (e.g., feed without guidance or reference) of group I for patentability as evidenced by the omission thereof from group III.

6. Inventions of groups II and III are separate inventions. They are distinct because the invention of group II does not require the specific details of the control structure (e.g., the spacing of the optical sensors) of group III for patentability as evidenced by the omission thereof from group II, and the invention of group III does not require the specific details of the cutter assembly configuration (e.g., the two blades parallel to each other) of group II for patentability as evidenced by the omission thereof from group III.

7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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Species

8. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A - The pivoted cutter assembly as shown in Figure 1;

Species B - The pivoted feed rollers disclosed but not shown.

If either one of groups I and II above is elected, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

9. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703)308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3579; informal/draft papers - (703)305-9835.

Communications via Internet e-mail regarding this application, other than those under 35 USC 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [rinaldi.rada@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 USC 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark Office on February 25, 1997 at 1195 OG 89.


Clark F. Dexter
Primary Examiner
Art Unit 3724

cfid
February 23, 2000